

**US DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION-DETROIT**

UNITED STATES OF AMERICA

Plaintiff,

v.

**Case No. 17-20183
Hon. Mark Goldsmith**

D-1 DARRICK BELL

Defendant.

UNITED STATES ATTORNEY
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Jerome Gorgon
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DEFENDANT D-1 DARRICK BELL'S MOTION FOR PRETRIAL RELEASE

***Certificate of Service
Brief in Support***

Now comes Darrick Bell, by his attorney, James W. Amberg, and respectfully requests this Court grant pretrial release for the following reasons:

1. Pursuant to LCR 7.1, counsel for the Defendant contacted AUSA Jerome Gorgon seeking concurrence in the relief requested in this Motion on March 20, 2020. Concurrence was denied.
2. Mr. Bell is charged in the Superseding Indictment, along with eight other defendants, with a variety of serious charges involving allegations of sex trafficking and narcotics distribution.

3. Specifically, the Superseding Indictment charges Mr. Bell with the following:

- Count One: Sex Trafficking Conspiracy
- Count Three: Sex Trafficking by Force, Fraud, and Coercion
- Count Four: Sex Trafficking by Force, Fraud, and Coercion
- Count Five: Sex Trafficking by Force, Fraud, and Coercion
- Count Six: Sex Trafficking by Force, Fraud, and Coercion
- Count Seven: Sex Trafficking by Force, Fraud, and Coercion
- Count Eight: Sex Trafficking by Force, Fraud, and Coercion
- Count Eleven: Conspiracy to Distribute a Controlled Substance
- Count Fifteen: Distribution of a Controlled Substance Resulting in Death or Serious Injury
- Count Seventeen: Distribution of a Controlled Substance Resulting in Death or Serious Injury
- Count Eighteen: Maintaining Drug-Involved Premises

4. As to Count One's conspiracy charge, the Government alleges that Mr. Bell, and six of his co-defendants, along with other conspirators both known and unknown to the Grand Jury, conspired to commit sex trafficking.

5. Mr. Bell was arrested in August of 2019 after having been in warrant status since March of 2017.

6. After arrest, Mr. Bell consented to detention pending trial. (R 317)

7. Trial is scheduled to begin on September 9, 2019.

8. In the past month, a national emergency has befallen the United States, namely the COVID-19 virus. (See **Exhibit A**, Presidential Proclamation)

9. This virus has only begun what will likely be a prolonged period of mass sickness throughout the country.

10. The President has declared the virus pandemic to be a National Emergency.

11. Although there is much uncertainty about what may happen, a few things are abundantly clear about COVID-19; that it is far deadlier than the flu; that one must avoid gatherings of ten or more people, and that

individuals should not be eating in public. (See **Exhibit B**, President's Coronavirus Guidelines for America)

12. The virus has shut down most of America, including this Court, as is discussed in detail in Judge Hood's Administrative Order. (See **Exhibit C**, Administrative Order 20-AO-021)
13. Mr. Bell is currently housed in the Midland County Jail.
14. Per the Jail's website, <https://www.co.midland.mi.us/Sheriff/Jail.aspx>, the jail consists of different pods with a total of 274 beds.
15. Counsel has been to Midland County Jail many times and it is very apparent that Mr. Bell congregates daily with many other federal inmates.
16. A major concern is that many of the federal inmates are moved throughout different prisons and jails, not only in Michigan, but throughout the United States.
17. The environment of the jail is undoubtedly unsafe and contrary to the recommendations of the President and the United States Government.
18. As to the possibility of the trial date, there is much uncertainty of whether the trial will proceed as scheduled because of the impact of the virus.
19. Further, there is a clear danger for Mr. Bell to be incarcerated, as not only does the particular close nature of the inmates at the jail place him in greater risk for contracting the virus, but it is speculated that the treatment for any potential illness may not be present, as can be seen in Italy and parts of the United States.

20. As is discussed in greater detail in the attached brief in support, the 18 USC § 3142(g) factors weigh in favor of granting the Defendant pretrial release.

FOR THESE REASONS, as well as those contained in the attached Brief in Support, Mr. Bell requests pretrial release pending trial.

Respectfully submitted,

/s/James W. Amberg
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Dated: March 20, 2020

Certificate of Service

I, James W. Amberg, attorney at law, certify that on March 20, 2020, I caused a copy of this Motion to be served upon the Government and the Court via efile.

/s/ James W. Amberg
James W. Amberg (P68564)

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**BRIEF IN SUPPORT OF DEFENDANT D-1 DARRICK BELL'S MOTION FOR
PRETRIAL RELEASE**

It is recognized that the charges against Mr. Bell are of such a nature that detention that "it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community." 18 USC §3142(e)(3) However, the aforementioned statute is "[s]ubject to rebuttal by the person." *Id* In determining whether no condition or combination of conditions will reasonably assure the appearance of the defendant and the safety of the community, the district court must take into account the available information concerning: 1) the nature and circumstances of the offense charged; 2) the weight of the evidence against the defendant; 3) the history and characteristics of the defendant; and 4) the nature and seriousness of the danger posed by the defendant's release. 18 USC §3142(g)

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This is an unprecedented time and that is why Mr. Bell is requesting this type of relief. Viewing the nature and circumstances of the charges against Mr. Bell, the narcotic portion which causes detention presumption is not the focal point of the case. Instead, this is a sex trafficking case. Viewing the weight of the evidence against Mr. Bell, although there are many claims made in the Indictment, the reality is that it is believed that the Government's case against Mr. Bell falls short. As to his history and characteristics, it is conceded that Mr. Bell had to be found and arrested. However, that was because he was scared that he was falsely accused of the sex trafficking charges. Finally, if Mr. Bell is released, he would have no objection to home confinement at a family member's home with a tether.

The most important reason for the release of Mr. Bell is that he is in a situation right now where he is placed in close proximity with other inmates in an environment that is primed for disease spread. Given this unique situation, it is argued it would be appropriate to grant Mr. Bell pretrial release. This would give him a much better chance of not contracting COVID-19 and keep him healthy when he appears for his trial.

Respectfully submitted,

/s/ James Amberg

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March 20, 2020

Exhibit A

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PROCLAMATIONS

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Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

Issued on: March 13, 2020



ALL NEWS

In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation's communities threatens to strain our Nation's healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. Certification and Notice. In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

Sec. 3. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

DONALD J. TRUMP



The White House



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Exhibit B

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THE PRESIDENT'S **CORONAVIRUS GUIDELINES** FOR AMERICA

15 DAYS TO SLOW THE SPREAD

Listen to and follow the directions of your **STATE AND LOCAL AUTHORITIES**.

IF YOU FEEL SICK, stay home. Do not go to work. Contact your medical provider.

IF YOUR CHILDREN ARE SICK, keep them at home. Do not send them to school. Contact your medical provider.

IF SOMEONE IN YOUR HOUSEHOLD HAS TESTED POSITIVE for the coronavirus, keep the entire household at home. Do not go to work. Do not go to school. Contact your medical provider.

IF YOU ARE AN OLDER PERSON, stay home and away from other people.

IF YOU ARE A PERSON WITH A SERIOUS UNDERLYING HEALTH CONDITION that can put you at increased risk (for example, a condition that impairs your lung or heart function or weakens your immune system), stay home and away from other people.



For more information, please visit
CORONAVIRUS.GOV

THE PRESIDENT'S CORONAVIRUS GUIDELINES FOR AMERICA

DO YOUR PART TO SLOW THE SPREAD OF THE CORONAVIRUS

Even if you are young, or otherwise healthy, you are at risk and your activities can increase the risk for others. It is critical that you do your part to slow the spread of the coronavirus.

Work or engage in schooling **FROM HOME** whenever possible.

IF YOU WORK IN A CRITICAL INFRASTRUCTURE INDUSTRY, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule. You and your employers should follow CDC guidance to protect your health at work.

AVOID SOCIAL GATHERINGS in groups of more than 10 people.

Avoid eating or drinking at bars, restaurants, and food courts — **USE DRIVE-THRU, PICKUP, OR DELIVERY OPTIONS.**

AVOID DISCRETIONARY TRAVEL, shopping trips, and social visits.

DO NOT VISIT nursing homes or retirement or long-term care facilities unless to provide critical assistance.

PRACTICE GOOD HYGIENE:

- *Wash your hands, especially after touching any frequently used item or surface.*
- *Avoid touching your face.*
- *Sneeze or cough into a tissue, or the inside of your elbow.*
- *Disinfect frequently used items and surfaces as much as possible.*

CORONAVIRUS.GOV

School operations can accelerate the spread of the coronavirus. Governors of states with evidence of community transmission should close schools in affected and surrounding areas. Governors should close schools in communities that are near areas of community transmission, even if those areas are in neighboring states. In addition, state and local officials should close schools where coronavirus has been identified in the population associated with the school. States and localities that close schools need to address childcare needs of critical responders, as well as the nutritional needs of children.

Older people are particularly at risk from the coronavirus. All states should follow Federal guidance and halt social visits to nursing homes and retirement and long-term care facilities.

In states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where groups of people congregate should be closed.

Exhibit C

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

In re: Court Operations Under
The Exigent Circumstances
Created by COVID-19 and
Related Coronavirus Health Conditions

Administrative Order

20-AO-021

ADMINISTRATIVE ORDER

This administrative order is being issued in response to the recent outbreak of the Coronavirus Disease (COVID-19) in the Eastern District of Michigan. On March 10, 2020, the Governor of the State of Michigan declared a State of Emergency after two residents have tested presumptive positive for COVID-19.

To combat the spread of the disease, given the severity of the risk posed to the public, Court staff, and other Court agencies, and considering the public health recommendations from the Centers for Disease Control and Prevention (CDC), the following protocol will be implemented within the Eastern District of Michigan:

1. All civil and criminal matters scheduled for in-court appearance before any district or magistrate judge in the Eastern District of Michigan are postponed pending further order of the Court. Questions concerning filing deadlines should be directed to the assigned judge.
2. All grand jury proceedings in this District are postponed pending further order of this Court.
3. With regard to criminal matters, due to the Court's reduced ability to obtain an adequate spectrum of jurors and the effect of the recommendations from the above public health organizations on the availability of counsel and Court staff to be present in the courtroom, the time period of the postponements implemented by this administrative order will be excluded under the Speedy Trial Act, as the Court specifically finds that the ends of justice served by ordering the postponements outweigh the best interest of the public and any defendant's right to a speedy trial, pursuant to 18 U.S.C. § 3161(h)(7)(A).
4. Case-by-case exceptions to the postponements may be ordered for non-jury matters at the discretion of the Court after consultation with counsel.
5. Criminal matters before magistrate judges, such as initial appearances, arraignments, detention hearings (and appeals to district judges from detention orders), and the issuance of search warrants, shall continue to take place in the ordinary course.

6. This order does not affect the Court's consideration of civil or criminal motions that can be resolved without oral argument or handled by telephone or video conference.

The World Health Organization has declared that COVID-19 qualifies as a global pandemic having spread across more than 100 countries with more than 1,000 confirmed cases in the United States. Considering the spread of the diseases, the courthouses in the Eastern District of Michigan will remain open with limited services available. The public is encouraged to use online Court resources or contact the Court by telephone.

This order will remain in effect until further order of the Court.

IT IS ORDERED.

FOR THE COURT:


Denise Page Hood
Chief Judge